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EXAMINER

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/769,294
Filing Date: January 26, 2001
Appellant(s): JOHNSON, RONALD FREDRIK MICHAEL

Wayne V Harper
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 9/18/09 appealing from the Office action mailed 8/18/08.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

6463345	PEACHEY-KOUNTZ et al.	10-2002
6341217	SALVO et al.	1-2001

Official Notice

(9) Grounds of Rejection

The following ground(s) of rejection were presented in the Office Action dated August 18, 2008 and are applicable to the appealed claims:

- 1. Claims 26-31 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.** Claims 26-31 recite a system comprising logic per se. If logic is merely computer code, then the method fails to comprise any physical elements and the claims are directed toward a computer program claimed as a computer listing per se, i.e., the descriptions or expressions of the programs, are not physical “things.” They are neither computer components nor statutory processes, as they are not “acts” being performed. See MPEP 2106 IV.B.1(a)
- 2. Claims 1- 3, 9-10, 12-16, 18, 20, and 22-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Peachey-Kountz et al. (US Patent 6,463,345) in view of Salvo et al. (US Patent 6,341,271) and Examiner’s Official Notice.**

Peachey-Kountz et al. discloses the claimed method of real-time inventory item status and information dissemination (column 3 lines 41-56 discloses a method for providing real-time inventory availability information), comprising the steps of:

recording in an inventory database a quantity on-hand (such as the databases used to store data shown in figure 2 in the ATP system 80 and discussed in column 7 lines 25-40. Inventory on hand is allocated to different forecast groups, for example in figure 2 group 1 is allocated 20 on hand and group 2 is allocated 80 on hand inventory items) which includes inventory data for a plurality of inventory items the inventory database being stored in an electronic data storage element in a server (such as the on-line server disclosed in column 6 line 59);

recording in the inventory database a first order for a first inventory item (orders are stored in a database of the ATP System 80 column 7 lines 8-11) and the corresponding order properties, the corresponding order properties comprising a first quantity ordered (such as "firm orders" disclosed in column 7 line 33. Also shown as an example in figure 2, under Demand as an order for 300 units made in period 2), a date ordered (column 5 lines 33 and 34), and at least one of an anticipated delivery time and an anticipated delivery date (column 3 lines 41-44), the first order representing an order placed with a supplier, the first inventory item being one of the plurality of inventory items;

recording in the inventory database a second quantity (for example the amount of inventory to be on-hand for subsequent periods allocated to each forecast group) of the first inventory item received from the supplier by at least incrementing the on-hand

Art Unit: 3687

inventory item quantity corresponding to the first inventory item, wherein the on-hand inventory item quantity is incremented in an amount equal to the second quantity (for example, figure 2 shows how inventory is incremented. Column 6 lines 29-40 discuss how the available inventory is incremented, such as calculating what is available for a group 1 customer requesting 80 pieces in period 2, the system adds the 20 on-hand from period 1 that was allocated for a group 1 customer and not sold to the 20 currently made available from period 2 to arrive at 40 pieces of available stock for period 2.);

storing in the inventory database information associated with at least one purchase request for a third quantity of the first inventory item, comprising placing a quantity of inventory items on reserve by incrementing in the inventory database an on reserve inventory item quantity by an amount corresponding to the third quantity for the first inventory item (figure 2 shows how inventory items are reserved by incrementing the inventory database. Column 6 lines 29-40 discuss how available or future inventory is reserved for a customer, such as in the example provided reserving 40 pieces in period 3 to provide the buyer with their 80 units they requested. 40 units were sent in the second period and 40 are reserved to be sent to them in the third period.);

receiving from a user, via a client at least one request for information about the first inventory item (Users submit orders via the "order-entry system" client that interfaces with the ATP server online, column 6 lines 63+);

calculating, via one of the server or the client, an inventory item quantity available for delivery for the first inventory item as a difference between an inventory item quantity on-hand and an inventory item quantity on reserve for the first inventory item (column 3

Art Unit: 3687

lines 41-44 discloses a quantity available. Column 6 lines 29-40 and figure 2 discloses how an available quantity is calculated, such as the available to promise amounts, for example the system calculates that it can reserve 40 pieces in period 5 for a customer in forecast group 2.);

displaying for the user, via the client the inventory item quantity available for delivery for the first inventory item (column 3 lines 41-44 discloses providing a customer a quantity available.);

Providing updated inventory item quantity available for delivery for the first inventory item when the inventory item quantity available for the first inventory item changes, thereby providing the client with real-time access to inventory information about the first inventory item (column 3 lines 50+ discloses a real-time processing system which provides updated inventory quantities in order for multiple users to use the system simultaneously on multiple order entry system); and,

But is silent regarding transmitting the inventory status update from the server to the client when the change in inventory occurs; carrying this transmission out via wireless communications means, such as with a cell phone; and displaying this updated inventory item quantity.

Salvo et al. discloses, in column 8 lines 51-60, that it is known in the art of inventory management to provide an inventory tracking and ordering system with the capability of transmitting inventory status updates (such as alerts of inventory events) from a server (control unit 114 and service center 175) to a client (such as a telephone, pager, computer over the Internet, etc...) when the change in inventory occurs (when

Art Unit: 3687

the predetermined event occurs, such as a change in economic indicator occurs); carrying this transmission out via wireless communications means (pagers, telephones and Internet computers are capable of wireless communications); and displaying this updated inventory item quantity (the alert would indicate the relevant information and it would be displayed on the pager or computer for example.); to notify the customer when a change in inventory status occurs, provide convenient wireless communications to the customer, and to show the customer the new information, respectively.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the method for real-time inventory status of Peachey-Kountz et al. with the sending of notice to a wireless terminal and displaying the notice on the terminal's display of Salvo et al., in order to notify the customer when a change in inventory status occurs, provide convenient wireless communications to the customer, and to show the customer the new information, respectively.

In the event that Salvo et al. is found to not teach wireless communication means with a display, Examiner takes Official Notice that it is notoriously old and well known in the art of networked systems to use wireless communications in order to eliminate the need to be tied down to one location, and that it would have been obvious to modify the method of Peachey-Kountz et al. and Salvo et al., as modified above, to have wireless capability on the client computer (disclosed as "order entry system" in Peachey-Kountz et al.) in order to allow the customers to not be tied down to one position by wires.

Regarding the use of the web, web browser and custom software on the client's system, the Examiner takes Official Notice that it is old and well known in the art of

Art Unit: 3687

networked systems to use the internet also called the World Wide Web (web), use web browsers and custom software to interface server applications over the Internet to allow wide communication while also controlling access to a server's applications. Therefore it would have been obvious to one of ordinary skill in the art to modify the method of Peachey-Kountz et al., Salvo et al. and Examiner's Official Notice, as modified above, to use the web, web browsers and custom software on client computers in order to have wide communication while also controlling access to the ATP server.

Regarding the use of UPC barcodes, scanning of these labels and tracking the return of items, the Examiner takes Official Notice that it is old and well known in the art of inventory tracking to use of UPC barcodes and scanners for scanning these labels to assist in the data entry of items into inventory and additionally that returned items are tracked and added back into inventory to provide an accurate assessment of what is in stock. Therefore it would have been obvious to one of ordinary skill in the art to modify the method of Peachey-Kountz et al., Salvo et al. and Examiner's Official Notice, as modified above, to use UPC barcodes and scanners for scanning these labels to assist in the data entry of items into the inventory database and to track returned items by adding them back into inventory in order to provide an accurate assessment of what is in stock.

Regarding consolidating inventory item reservation requests, the Examiner takes Official Notice that it is old and well known for purchases to include more than one kind of item, for example a buyer may wish to purchase two different type of computer chips and have them shipped together, therefore it would have been obvious to one of

Art Unit: 3687

ordinary skill in the art of on-line purchases to consolidate inventory item reservation requests by a buyer in provide the buyer the two different items together and to ship the items together.

(10) Response to Argument

A. Applicant argues that claims 26-31 are directed to statutory subject matter.

Examiner contends that the claimed invention is directed to non-statutory subject matter as they recite only a nominal recitation of a computer system. Nominal recitations of structure in an otherwise ineligible method fail to make the method a statutory process under section 101. Benson 409 U.S. at 71-72. A general purpose computer is not a particular machine, and thus innovative software processes are unpatentable if they are tied only to a general purpose computer and an “incidental physical limitation, such as data gathering, field of use limitations, and post-solution activity are not enough to convert an abstract idea into a statutory process”. Langemyr Appeal 2008-1495, p 20-21. The only recitation of structure is in the nominal recitation in the preamble citing a “computer readable medium”. This recitation is so generic as to encompass any computing system, such that anyone who performed this method or software process in practice falls within the scope of the claims. The recitation of a computer system in the preamble is not, in fact, a limitation for the scope of the claim, the claim is directed essentially to the method/software process performed by any means.

Additionally Examiner notes that the term “a computer readable medium” is broad enough to incorporate a carrier wave which is non statutory subject matter.

B. Applicant argues that Peachey-Kountz and Salvo do not disclose placing inventory on reserve as an order is placed.

Peachy-Kountz discloses placing inventory on reserve as an order is placed, for example see column 6 lines 29+, disclosing the hypothetical where a request is made by a customer for 80 pieces in period 2 and the customer is presented options to get 40 pieces in period 2, 80 pieces in period 3, or 40 pieces in period 2 and 40 pieces in period 3 and the “system automatically recognizes reservations for important customers”. It goes on to say "manual intervention is unnecessary to commit orders for a limited supply”, this committing to orders and reservations for customers is construed by the Examiner to be placing inventory that currently exists (the 40 pieces of period 2) on reserve as the customer’s order is placed.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner’s answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/Elaine Gort/

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